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Message Text

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 ACDA-07 AGR-05 AID-05 CEA-01

CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00 DOTE-00

EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-02 INR-07

INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-06

OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06 SAL-01

FEA-01 AF-08 ARA-06 EA-07 EUR-12 NEA-10 /158 W
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TO SECSTATE WASHDC PRIORITY 8790

C O N F I D E N T I A L USUN 3362

FROM LOS DEL

E.O. 11652: GDS
TAGS: PLOS
SUBJECT: LOS: INFORMAL PLENARY ON DISPUTE SETTLEMENT AUGUST 19

1. INFORMAL PLENARY AUGUST 19 COMPLETED ARTICLE 13 (ACCESS) AND HEARD 31 SPEAKERS ON ART 15 (RELEASE OF DETAINED VESSELS). ARTICLE 14 WILL BE DISCUSSED AFTER ARTICLE 18, WITH WHICH IT IS CLOSELY CONNECTED.

2. PAKISTAN, TUNISIA AND BRAZIL INDICATED ART 13 COULD ONLY BE CONSIDERED AS TO ACCESS FOR ENTITIES OTHER THAN STATES AFTER COMMITTEE I INDICATED ITS VIEW ON THE ONE TRIBUNAL/ TWO TRIBUNAL ISSUE, AND AFTER CONSIDERATION OF ART 15 AND THE ANNEXES. TUNISIA RECALLED G-77 POSITION IN FAVOR OF ACCESS TO DISPUTE SETTLEMENT PROCEDURES FOR NATIONAL LIBERATION MOVEMENTS BUT SUGGESTED THIS IS NOT THE TIME TO DEAL WITH IT.
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3. ARAB GROUP, WITH SUPPORT FROM MOST LATINS WHO SPOKE, STRONGLY ATTACKED ART 15. MAURITANIA AND MOROCCO OPENED ATTACK WITH FORCEFUL STATEMENTS THAT ART 15, AND PARTICULARLY SUIT AGAINST STATE BY VESSEL OWNER, OPERATOR OR MASTER, WAS AN AFFRONT TO THE SOVEREIGNTY

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OF THE COASTAL STATE WITHIN ECONOMIC ZONE. VENEZUELA ADDED THAT THE ARTICLE WAS SO BROAD THAT IT IMPINGED ON NATIONAL JURISDICTION BECAUSE IT DOES NOT SPECIFY WHICH VESSELS MUST BE RELEASED ON BOND, NOR WHERE OBLIGATION APPLIES, NOTING THAT AS DRAFTED IT INCLUDES DETENTION IN INTERNATIONAL WATERS. UAE, MADAGASCAR, ARGENTINA, INDIA, CANADA, CHILE, QATAR, OMAN, PERU AND BRAZIL SHARED THESE RESERVATIONS. ARAB GROUP GENERALLY EMPHASIZED SOVEREIGNTY INFRINGEMENT, ADEQUACY OF PROVISIONAL MEASURES FOR THE TASK, AND EXCLUSION OF VESSEL OWNER ACCESS. LATINS (AND INDIA) EMPHASIZED NEED TO SPECIFY TYPES OF VESSELS AND AREAS, WITH RESOURCE-RELATED DETENTION BEING SUBJECT TO NATIONAL LAWS FOR VESSEL RELEASE, WHILE OTHER DETENSIONS WOULD BE SUBJECT TO INTERNATIONAL PROCEDURES AFTER EXHAUSTION OF LOCAL REMEDIES.

4. GHANA WAS FIRST SPEAKER TO DEFEND ART. 15, POINTING OUT ARTICLE DOES NOT REPEAT NOT PREJUDICE MERITS OF A CASE (PARA 3) AND SHOULD NOT BE REGARDED AS INCOMPATIBLE WITH COASTAL STATE RIGHTS. US AGREED WITH GHANA, EMPHASIZING ARTICLE DEALS ONLY WITH VESSEL RELEASE ON BOND, THE HARDSHIPS AVOIDED BY BOND, THE NEED FOR A PROCEDURAL DEVICE TO GIVE EFFECT TO ART. 36 OF PART III AND ART 61 OF PART II AND THE USEFULNESS FOR SMALL STATES OF VESSEL OWNER ACCESS TO SPEED RELEASE. USSR, GREECE, AUSTRALIA, FRANCE, FRG, NIGERIA, JAPAN, BULGARIA, SWEDEN, UK, AND COLUMBIA SPOKE IN FAVOR OF RETAINING ARTICLE. EUROPEANS EXPRESSED RESERVATIONS CONCERNING USE OF LOS TRIBUNAL IN ART 15. USSR AND JAPAN WISHED TO ADD THE OPTION OF SOME FORM OF SPECIAL PROCEDURE TO THE LOSE TRIBUNAL.

5. GREECE PROPOSED ADDITION OF RELEASE OF CARGO TO
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RELEASE OF VESSELS, PASSENGERS AND CREWS, AND WAS SUPPORTED BY THE US, USSR, BULGARIA AND DENMARK. GREECE ALSO PROPOSED PRIVATE PARTY ACCESS FOR DAMAGES RESULTING FROM LIABILITY OF A COASTAL STATE FOR ILLEGAL SEIZURE, WHICH WAS WIDELY CONSIDERED TO BE OUT OF LINE IN THIS CONFERENCE OR, AT LEAST, THIS ARTICLE.

6. DEBATE WILL CONTINUE ON FRIDAY.
BENNETT

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